1946.

File No. O. Medical Council/46

Legal Department

A **BRANCH**

Subject:—

Opinions Under the Indian Medical Council Act, 1933

CP 2 (E)

O Medical Council/46

File No.

Gen. 194 e.

4418-A

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Office of the R.L.A.

The main question for the consideration of the R.L.A. is whether the election of Dr.V.R.Khanolkar to the Medical Council of Indiam should be set aside by Govt. under section 4(2) of the Indian Medical Council Act, 1933 merely on the ground that he was described in the voting paper as professor of Pathology and Bacteriglogy, Sheth G.S.Medical College, which post he had ceased to hold long before his election.

Rule 1 in Part III of the Rules framed by Government under section 4 of the Indian Medical Council Act, 1933 provides:-

> "Government may, of their own motion or on the objection made within twenty one days of the declaration of the result of election, declare any election to the Council to be void on account of corrupt practice or any other sufficient cause, and may call on the electorate to make a fresh election. The decision of Government under this rule shall be final."

It is not alleged that Dr.Khanolakr has been guilty of any corrupt practice.

The words'any other sufficient cause' in rule 1 of Part III of the Rules under section 4 of the Indian Medical Council Act, have to be read ejsdem generis with the preceding words"corrupt practice", and on so reading, it appears that those words mean practice of a similar nature, that is to say, an illegal practice. The allegation that Dr.Khanolkar was wrongly described in the voting paper as professor of Pathology & Bacteriology, Sheth G.S. Medical College, when in fact he was not holding such post at the time of election, does not amount to an illegal practice. Consequently the election of Dr. Khanolkar cannot be set aside under rule 1.

Assuming that the words "any other sufficient cause" in rule 1 are wide enough to include misleading statements intending to influence the voters, it must be

admitted.....

admitted that Dr. Khanolkar himself has in no way responsible for his wrong description in the voting paper and consequently his election cannot be impeached on that score. Further more, according to parliamentary election practice "every ballot paper must contain a list of candidates described as in their respective nomination papers. It must be in prescribed form or as near thereto as circumstances admit and must be capable of being folded" (see Halsbury Vol.XII p.297). In the nomination paper of Dr. Khanolkar his name and number on the electoral roll were given. In the electoral roll Dr. Khanolkar was described as professor of Pathology and Bacteriogloy Sheth G.S Medical College, which description was not objected to by any when the electoral robl was published. In the voting paper the same description of Dr. Khanolkar appears. Consequently the description of Dr. Khanolkar in the voting paper is in conformity with the nomination paper. Besides Form III prescribed under rule 6(2) and (5) requires that the names and addresses of candidated should be stated. Since no separate address of Dr. Khanolkar was stated in the voting paper the statement therein, 'Professor of Pathology & Bacteriology Sheth G.S. Medical College", is to be deemed his address for the purposes. In the circumstance there does not appear to be any valid reasons to set aside the election of Dr. Khanolkar.

Id/- P.N.M.
20/9/46.

Remembrancer of Legal Affairs.

U.O.R. to G.D. No. 6468,

dated the 23rd September 1946.

JBE.10/7/56
4 copies.